



Patrick W. Henning, Director
August 1, 2008
22M:366:dph:8057-8058



Arnold Schwarzenegger
Governor

Mr. Jan Vogel, Executive Director
South Bay Workforce Investment Board
11539 Hawthorne Blvd., Suite 500
Hawthorne, CA 90250

Dear Mr. Vogel:

WORKFORCE INVESTMENT ACT
FISCAL AND PROCUREMENT REVIEW
FINAL MONITORING REPORT
PROGRAM YEAR 2007-08

This is to inform you of the results of our review for Program Year (PY) 2007-08 of the South Bay Workforce Investment Board's (SBWIB) Workforce Investment Act (WIA) grant financial management and procurement systems. This review was conducted by Mr. David Hinojosa from April 14, 2008 through April 18, 2008. For the fiscal portion of the review, we focused on the following areas: fiscal policies and procedures, accounting system, reporting, program income, expenditures, internal control, allowable costs, cash management, cost allocation, indirect costs, fiscal monitoring of subrecipients, single audit and audit resolution policies and procedures for its subrecipients and written internal management procedures. For the procurement portion of the review, we examined procurement policies and procedures, methods of procurement, procurement competition and selection of service providers, cost and price analyses, contract terms and agreements, and property management.

Our review was conducted under the authority of Section 667.410(b)(1), (2) & (3) of Title 20 of the Code of Federal Regulations (20 CFR). The purpose of this review was to determine the level of compliance by SBWIB with applicable federal and state laws, regulations, policies, and directives related to the WIA grant regarding financial management and procurement for PY 2007-08.

We collected the information for this report through interviews with representatives of SBWIB, a review of applicable policies and procedures, and a review of documentation retained by SBWIB for a sample of expenditures and procurements for PY 2007-08.

We received your response to our draft report on July 10, 2008, and reviewed your comments and documentation before finalizing this report. Because your response did

not adequately address finding 1 cited in the draft report, we consider this finding unresolved. We request that SBWIB provide the Compliance Review Division (CRD) with a corrective action plan (CAP) to resolve the issue that led to the finding. Therefore, this finding remains open and has been assigned Corrective Action Tracking System (CATS) number 80144.

Conversely, your response adequately addressed finding 2 cited in the draft report, and no further action is required at this time. However, this issue will remain open until we verify the implementation of your stated corrective action plan during a future onsite review. Until then, this finding remains open and has been assigned CATS number 80145.

BACKGROUND

The SBWIB was awarded WIA funds to administer a comprehensive workforce investment system by way of streamlining services through the One-Stop delivery system. For PY 2007-08, SBWIB was allocated: \$1,330,063 to serve 217 adult participants; \$1,283,559 to serve 273 youth participants; and \$1,155,633 to serve 227 dislocated worker participants.

For the quarter ending December 31, 2007, SBWIB reported the following expenditures and enrollments for its WIA programs: \$345,923 to serve 136 adult participants; \$147,223 to serve 171 youth participants; and \$71,934 to serve 180 dislocated worker participants.

FISCAL REVIEW RESULTS

We concluded that, overall, SBWIB is meeting applicable WIA requirements concerning financial management.

PROCUREMENT REVIEW RESULTS

While we concluded that, overall, SBWIB is meeting applicable WIA requirements concerning procurement, we noted instances of noncompliance in the following areas: cost/price analysis and contract provisions. The findings that we identified in these areas, our recommendations, and SBWIB's proposed resolution of the findings are specified below.

FINDING 1

Requirement:

29 CFR 97.36(f) states, in part, that grantees and subgrantees must perform a cost or price analysis in connection with every procurement action including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, grantees must make independent estimates before receiving bids or proposals. A cost analysis will be necessary when adequate price competition is lacking, and for sole source procurements, including contract modifications. A price analysis will be used in all other instances to determine the reasonableness of the proposed contract price.

29 CFR 97.36(d)(4)(ii) states, in part, that a cost analysis, i.e., verifying the proposed cost data, the projections of the data, and the evaluation of the specific elements of costs and profits, is required.

Observation:

We found that SBWIB did not conduct cost/price analyses for amendments to a contract. Specifically, SBWIB made four amendments for PY 2007-08 to the contract with ProPath Inc. that provide for additional dislocated worker and rapid response services, increase costs, and time. The SBWIB staff stated that they were using the original cost analysis conducted in the original contract. However, there was no documentation to show that a cost/price analysis was originally conducted.

Recommendation:

We recommended that SBWIB provide documentation to show that a cost/price analysis was conducted for each of the amendments and provide a CAP to CRD that describes how they will ensure that a cost/price analysis will be conducted for all future modified contracts.

SBWIB Response:

The SBWIB stated that they provided a completed Request for Proposal binder which included the cost/price analysis at the time of the on-site visit which showed that a cost/price analysis was conducted for ProPath, Inc., prior to the awarding of the contract. The SBWIB stated that the original cost/price analysis will be used for each of the four amendments, since there is no change from the original cost/price analysis, placing the cost/price analysis in the contractor's file behind each amendment and will

continue to do so in the future to ensure that a cost/price analysis is in the Contractor's file.

State Conclusion: Based on SBWIB's response, we cannot resolve this issue at this time. While SBWIB provided the original cost/price analysis used for the original contract, the original cost/price analysis will not substitute as a cost/price analysis for each modification or amendment to the contract. Each amendment resulted in additional dislocated worker and/or rapid response services, increased costs, and time. A new cost/price analysis must be conducted for each amendment and if the original information is still valid, that should be indicated and made clear in the new cost/price analysis. The SBWIB has not shown that this occurred.

Therefore, we recommend that SBWIB provide documentation to show that a cost/price analysis was conducted for each of the amendments and provide a CAP to CRD that describes how it will ensure that a current cost/price analysis is conducted for all future modified contracts. Until then, this finding remains open and is assigned CATS number 80144.

FINDING 2

Requirement: 29 CFR 97.36(i) states, in part, that a subgrantee's contracts must contain provisions in paragraph (i) of this section. Among the provisions are the following:

- Compliance with Equal Employment Opportunity (EEO) provisions in Executive Order (E.O.) 11246, as amended by E.O. 11375 and supplemented by the requirements of 41 CFR Part 60; and
- Compliance with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act, Section 508 of the Clean Water Act, and Environmental Protection Agency regulations for contracts in excess of \$100,000.

Observation: We observed that the contracts with ProPath, Inc. and Gardena lacked the provision for compliance with EEO provisions in E.O. 11246, as amended by E.O. 11375 and supplemented by the requirements of 41 CFR Part 60.

In addition, the contract with ProPath, Inc. lacked the provision for compliance with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act, Section 508 of the Clean Water Act, and Environmental Protection Agency regulations. The SBWIB stated this was an oversight because the ProPath, Inc. contract was originally less than \$100,000 and that when SBWIB increased the award amount of the ProPath, Inc. contract to above \$100,000, they overlooked the requirement to include this provision. We reviewed the Gardena contract and it did include this provision.

Recommendation: We recommended that SBWIB submit a CAP to CRD stating how it will ensure that future contracts, as applicable, include the above contract provisions and arrange to revise all contracts with its current subrecipients to include the above provisions, as required.

SBWIB Response: The SBWIB stated that they are currently in the process of renewing or amending their contracts for PY 2008-09 and will make the changes to the contract provisions as stated above and that all other contracts have the required compliance provisions.

State Conclusion: The SBWIB's stated corrective action should be sufficient to resolve this issue and no further corrective action is required. However, we cannot close this issue until we verify, during a future onsite visit, SBWIB's successful implementation of its stated corrective action. Until then, this issue remains open and has been assigned CATS number 80145.

We provide you up to 20 working days after receipt of this report to submit to the Compliance Review Division your response to this report. Because we faxed a copy of this report to your office on the date indicated above, we request your response no later than August 29, 2008. Please submit your response to the following address:

Compliance Monitoring Section
Compliance Review Division
722 Capitol Mall, MIC 22M
P.O. Box 826880
Sacramento, CA 94280-0001

In addition to mailing your response, you may also FAX it to the Compliance Monitoring Section at (916) 654-6096.

Mr. Jan Vogel

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August 1, 2008

Because the methodology for our monitoring review included sample testing, this report is not a comprehensive assessment of all the areas included in our review. It is SBWIB's responsibility to ensure that its systems, programs, and related activities comply with the WIA grant program, Federal and State regulations, and applicable State directives. Therefore, any deficiencies identified in subsequent reviews, such as an audit, would remain SBWIB's responsibility.

Please extend our appreciation to your staff for their cooperation and assistance during our review. If you have any questions regarding this report or the review that was conducted, please contact Mr. Jim Tremblay at (916) 654-7825 or Mr. David Hinojosa at (916) 653-4322.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jessie Mar".

JESSIE MAR, Chief
Compliance Monitoring Section
Compliance Review Division

cc: Linda Patton-Finch, MIC 50
Shelly Green, MIC 45
Jose Luis Marquez, MIC 50
Norma McKay, MIC 50